



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

NASHUA HOUSING AUTHORITY SUPPORT :
STAFF :

Petitioner :

CASE NO. A-0581

v. :

DECISION NO. 97-083

NASHUA HOUSING AUTHORITY :

Respondent :

APPEARANCES

Representing Nashua Housing Authority Support Staff:

Harriett P. Spencer, Staff Representative

Representing Nashua Housing Authority:

George F. Robinson, Executive Director

Also appearing:

Lisa Royce, Nashua Housing Authority

Arthur Gormley, Jr., Nashua Housing Authority

BACKGROUND

The Nashua Housing Authority Support Staff and AFSCME (Union) filed a petition for the certification of a bargaining unit on May 6, 1997. The City of Nashua filed its response on May 21, 1997. An amendment to the petition was received from the Union on July 8, 1997. A hearing was held before the undersigned hearings officer on July 9, 1997, at which time the Amendment was accepted.

FINDINGS OF FACT

1. The Nashua Housing Authority (Authority) employs personnel in the operation of municipal public housing in the City of Nashua and so is a "public employer" within the meaning of RSA 273-A:1 X.
2. The Nashua Housing Authority Support staff/AFSCME, Local 1801, (Union) has proposed the certification of a fifteen member bargaining unit which is described as "Full-time non-probationary, non-temporary Nashua Housing Authority Support Staff employees" in the Finance, Maintenance and Management and Occupancy Departments to consist of eleven positions: Accountant (1), System Administrator (1), Bookkeeper (1), Purchasing Coordinator (1), Receptionist (1), Housing Inspector (1), Housing Manager (1), Occupancy Coordinator (2), Section 8 Administrator (3), Public Housing Coordinator (2) and Management Aide (1). Excluded are the Executive Director, Assistant Executive Director, Director of Management and Occupancy, Director of Maintenance, Director of Finance, Director of Modernization Program Director and Executive Secretary.
3. The Authority challenges the inclusion of two positions: Accountant, on the basis of the supervisory and confidential duties of the position, and Systems Administrator, because of the confidential nature of the position. In its Answer of May 21, 1997, the Authority requested that certain positions be included in the bargaining unit. These positions follow: Program Coordinator, Public Housing Drug Elimination Coordinator, (2, 1 vacant), Service Coordinator, Congregate Housing Services Program (vacant), Program Assistant, Congregate Housing Services Program (2 part-time positions), and the several positions with the Adult Day Service Program: including Administrative Assistant, Project Coordinator, Registered Nurse (2), Activity Aide, Dietary Aide and Bus Coordinator. No job descriptions were provided for these additional positions.

4. Job descriptions for the Accountant and System Administrator, dated May 1, 1993, have been provided. (Authority Exhibit No. 1). Both the positions of Accountant and System Administrator report to the Director of Finance and Administration. Both the positions of Accountant and Finance Director are newly filled. According to the Accountant's job description (Authority Exhibit No. 1), the Accountant directly supervises professional and clerical support personnel. Prior to the addition to the organizational structure of the Director of Finance, the Accountant had greater supervisory authority. Presently, the positions over which the Accountant provides some supervision include three proposed bargaining unit positions: System Administrator, Bookkeeper and the Receptionist.
5. The Accountant position participates in development of the budget, including the salaries and benefits for bargaining unit members. There is presently a bargaining unit for maintenance workers employed by the authority and negotiations are ongoing. The Accountant has access to all statistics related to the finances of the agency and is called on to apply his financial expertise when policy decisions are to be made according to George Robinson, Executive Director. This high level of responsibility is reflected in the principal duties section of the Accountant's job description. (Authority Exhibit No. 1) This position takes the raw data and develops spread sheets and graphs on the impact of proposals such as salary increases to be used in negotiations.
6. The Systems Administrator has access to the same confidential statistical information as does the Accountant. This position is responsible for all computer hardware and software used by the Authority and produces a series of monthly reports used in decision making. These reports contain critical information such as profit and loss statements for the adult daycare and congregate housing programs and variance reports on subjects such as tenant rents, utilities and other expenses.

DECISION AND ORDER

RSA 273-A:8 empowers the Public Employee Labor Relations Board to determine the composition of bargaining units and to certify such units. The statute establishes a standard under which a bargaining unit is to be reviewed. The statute proscribes the inclusion in bargaining units of two categories of employees which are challenged in the instant case: employees whose duties imply a confidential relationship to the public employer, RSA 273-A:1 IX (c), and employees who exercise significant supervisory authority over bargaining unit positions, RSA 273-A:8 II.

The Accountant position exercises supervisory authority over certain bargaining unit positions according to testimony and documentary evidence. However, two levels of supervisory authority exist over the Accountant and it is the Director of Finance and the Executive Director, rather than the Accountant, which now exercise significant supervisory authority over bargaining unit positions. The Accountant position is not excludable for supervisory reasons. However, the Accountant's duties imply a confidential consulting relationship with management. The Accountant has access to confidential data and employs this data in advising management on matters which will be used in labor negotiations. Therefore, this position is excluded from the bargaining unit for confidentiality reasons.

The System Administrator has access to confidential information held by the Nashua Housing Authority but the duties of the position do not require analyzing and advising management based on the data. The production of reports on subjects such as profits and losses of the various programs of the Authority, though confidential for usual business purposes, does not require the exclusion of the System Administrator position from the bargaining unit. It is the position that deals with confidential labor relations materials that is subject to the exclusion of RSA 273-A:1 IX (c). Though the System Administrator has access to all data within the system, the position is not required to produce reports for labor negotiations purposes as is the Accountant.

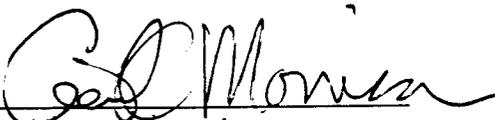
The Authority has asked for inclusion in the bargaining unit of twelve positions associated exclusively with the individual programs of the Nashua Housing Authority. These positions appear to be located off site rather than within the Authority office as

are the petitioned positions. The Adult Day Service Program is operated at Alvirne in the Town of Hudson. Other positions are located at various sites in Nashua where the Drug Elimination Program or the Congregate Housing Program are headquartered. Little testimony was taken regarding these individual positions and few reasons were given as to why these positions should be included in the bargaining unit over the Union's objections. The duties of these positions are unknown for lack of job descriptions.

The twelve remaining positions which operate within the Authority's specific programs, which were suggested by the Authority and challenged by the Union, have not been shown to have a sufficient community of interest with the office staff positions at the Nashua Housing Authority to be included in the proposed bargaining unit. The bargaining unit which is appropriate for the Nashua Housing Authority consists of the following positions: System Administrator (1), Bookkeeper (1), Purchasing Coordinator (1), Receptionist (1), Housing Inspector (1), Housing Manager (1), Occupancy Coordinator (2), Section 8 Administrators (3), Public Housing Coordinators (2) and Management Aide (1).

So ordered

Signed this 25th day of August, 1997.


Gail C. Morrison
Hearing Officer